



Interactive Ontario's recommendations to the Canada Media Fund (CMF)

Interactive Ontario (IO) understands that the CMF is not planning on making significant changes to its programs in 2021-2022. In that context, IO organized a town hall with the Video Game/Interactive Digital Media (IDM) industry in Ontario on December 15, 2020 to discuss potential recommendations to the CMF regarding “implementable” improvements to CMF programs – 35 business leaders participated.

The IDM industry is grateful to the CMF and its programs for their positive impacts on the growth of the IDM sector in Canada. Therefore, the intent of the recommendations below is to provide feedback that may help improve such key programs for the industry.

1. Ensure reasonable insurance requirements

We understand that the CMF/Telefilm is aware of the issues and is currently working on solutions.

Context

- As demonstrated in the email Lucie Lalumière sent to Nathalie Clermont on December 17, 2020, the Crime and Network Security & Privacy Liability requirements seem disproportionate to risks and hence, are exorbitantly priced. Moreover, IDM producers have to spend an inordinate amount of time shopping for insurance, negotiating with insurers, and securing the Certificate of Insurance (COI) language required by the CMF.
- The CMF requires that the COI language include a “thirty-day notice of cancellation or material change in coverage to the CMF.” However, this is not standard practice and insurers do NOT agree to it for several reasons, including but not limited to, ambiguity as to how material change is defined. To better serve the objective of CMF, it is important to understand what CMF would like to achieve with respect to the inclusion of this caveat. In some cases, brokers may include this language on the COI to meet CMF's requirement, but it may not be endorsed by the insurers in the way CMF intends, which puts IDM producers in a difficult predicament.
- The CMF requirements can lead to substantial extra costs for IDM producers (e.g. VPN for all employees working from home).
- Other funders, such as Ontario Creates, do not require Crime and Network Security & Privacy Liability insurance.

Recommendations

- Assess the necessity of the Crime and Network Security & Privacy Liability insurance for all projects.
- Set reasonable insurance requirements that are in line with the phase of the project (e.g. prototyping, production), its budget, company size, and the materiality of the risks.
- Verify that the aforementioned requirements will be reasonably priced, perhaps include a list of preferred/CMF experienced insurance brokers on the CMF website.
- Remove the requirement for the COI language to include a “thirty-day notice of cancellation or material change in coverage to the CMF.”
- Consult further with industry on insurance issues stemming from the CMF requirements as there could be additional ones not mentioned in this document.
- Once a reasonable solution is developed, organize information and Q&A sessions with industry.

2. Improve recoupment and exit policies

The IDM industry would like the opportunity to meet with the CMF to discuss potential solutions.

Context

- The IDM industry understands the need for the CMF to recoup its investment.
- The new 15% gross recoupment policy is, at the first glance, simpler than prior recoupment policies. However, there are concerns that should be addressed and may require adjustments:
 - Most platforms take a large amount of the gross revenue (30%), leaving little to the IDM producers for continued live operations, or other.
 - IDM producers that have deals with publishers may not be able to get the gross sales numbers, depending on the terms of their deals, and the terms of the publishers' deals with platforms.
 - It may not be possible to get gross sales revenue from bundle deals (bundles with other games).
 - Increasingly, video game studios release living games (games as a service). These games require constant reinvestment after their initial release and during their growth phase, right up to the edge of margins. The 15% off gross will prevent studios with promising living games projects to apply to the CMF for funding.
- The 7-year CMF recoupment period can be disproportionate to the actual contribution of the CMF to the living project.
- Moreover, exit clauses in the CMF contracts are vague and do not include a clear guideline or benchmark.
- A lack of exit terms may prevent CMF recipient companies from scaling up, as it hinders (and sometimes prevents) negotiations and deals with investors and acquirers.

Recommendations

- Develop with industry, recoupment strategies that would be fair to the CMF and the recipients of CMF funding. For example, the percentage of recoupment should be net of platform/publisher fees – eligible fees and expenditures should be clearly defined. Expenses incurred by the producer for live ops and post-launch activities should be recouped first by the producer.
- Cap the CMF maximum recoupment (dollar value) on projects funded (e.g. x times the CMF contribution).
- Cap the CMF maximum recoupment (dollar value) if 50% or more of the company or project is sold (e.g. x times the CMF contribution).
- Make sure that there is clarity in the CMF contracts re.:
 - The aforementioned expenditures and caps.
 - Clearly state that CMF has no ownership stake in the IP.

3. Improve timing of deadlines

Context

- In Ontario, the Ontario Creates' application funding deadlines precede the CMF application deadlines for similar programs.
- Ontario Creates provides conditional offers to applicants who have CMF funding in their financing plan. Hence, successful Ontario Creates' applicants may have to wait an additional two months before they know if their CMF applications were successful, which for many projects is required to determine if the project will proceed. Such a delay can be detrimental to the project and company considering the fast-evolving IDM industry and markets.

Recommendations

- Provided that it does not negatively affect applicants from other provinces, set the CMF deadlines about 4 weeks prior to Ontario Creates. Otherwise, work with the other main funding bodies to better sync timelines for applications and decisions.

4. Allow CMF-funded projects to evolve with market needs

The IDM industry would like the opportunity to meet with the CMF to further discuss potential amendment processes.

Context

- IDM producers constantly have to adapt their projects to fast-evolving market needs.
- IDM producers must deliver projects as approved by the CMF, even if it no longer makes business sense due to changes in the market.
- When market changes occur, it can be detrimental to the success of the project if the project does not adapt to address these changes.

Recommendations

- Consider the project approved as a solid starting point that can evolve according to market needs, provided that it benefits the end users, the producer, the CMF and other investors.
- Provide parameters and guidelines (e.g. maintain the same genre, same level of quality, minimum game play, etc.) for the CMF to consider pivots such as platforms, languages, etc. We understand that this may be difficult to develop and implement. However, it is critical to provide flexibility to adapt to changes in the market.
- Set an amendment process whereas the IDM producer must provide market and financial justifications to the amendments requested.

5. Make sure that the analysts and jurors have the expertise required to assess off-the-beaten-path projects and teams

We understand that the CMF/Telefilm is consulting under-represented groups to identify systemic biases and develop solutions.

Context

- Analysts and jurors that have experience reviewing mass-market IDM products from established studios do not always have the expertise to assess projects targeting less traditional markets or led by under-represented producers.

Recommendations

- Train Telefilm analysts on inclusivity.
- Consult with under-represented IDM producers on potential solutions.

6. Clarify financial requirements

Context

- There is a perception that financing projects with tax credits is perceived negatively by the CMF.
- There is a perception that analysts don't always assess the cash flow projections provided.

Recommendations

- Clarify if tax credits are indeed perceived negatively by the CMF, so industry can engage in a discussion with the CMF on the topic. Alternatively, if in CMF's experience tax credits are not properly supported in applications, then it is necessary to educate the industry and potential applicants on how to support the use of tax credits as a financing option.
- Clarify the CMF requirements in terms of cash flow projections, so we can comment on the format of the current cash flow spreadsheet.
- Provide written notes from analysts with respect to the financials.

7. Encourage better alignment between written feedback and points received

Context

- Written comments do not always align with points received.

Recommendations

- Continue to encourage jurors and analysts to align comments to points. Where there are discrepancies, challenge jurors to add additional commentary to support allocated points, or alternatively amend points to better reflect comments.

8. Improve the audience success report requirements

Context

- While we did not have sufficient time to deep dive into the issue, IDM producers commented on the fact that audience success report requirements should be improved.

Recommendations

- Consult with industry on potential improvements to the audience success report.

9. Improve the Dialogue Portal

Context

- With the exception of one producer, all IDM producers are very frustrated with Dialogue and mentioned the need for improvements to the system.
- Some of the issues mentioned are:
 - It's not possible to initiate questions and requests in Dialogue – they must be emailed to analysts. As such, there is not a centralized and official repository for all communications between analyst and producer.
 - Alerts are not always emailed (no consistency) to producers/applicants.

- Administrators have no visibility into tasks once they are assigned to another user in the company.
- Browsing in Dialogue sometimes creates new tasks inadvertently.
- Some instructions are wrong, or use different names, to describe the same request in the user guide and on the portal. For example, the process for getting invoices for Exploitation Reports (now called something else) is confusing, unless it was recently fixed. Dialogue says that it will take 5-10 minutes to generate. But instead, it is manually approved and can take days.
- To complete final reports, Producers must go into their initial applications and override previous fields to complete the final report.
- Dialogue asks for Related Party information in more than one section - duplicating efforts and information input/received.
- When a producer makes a submission to receive a payment, Dialogue indicates it is received and the submission is accepted. However, this does not necessarily mean that the payment is coming – this should be made clear.
- Dialogue is not reliable as it does not always work.

Recommendations

- Ideally, Dialogue needs to be updated or replaced by a modern and well-designed portal.